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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,896	09/14/2006	Harri Heine	297-012643-US (PAR)	1801
2512	7590	11/07/2008		
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			EXAMINER WANG-HURST, KATHY W	
			ART UNIT	PAPER NUMBER
			2617	
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			11/07/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/598,896	<b>Applicant(s)</b> HEINE ET AL.	
	<b>Examiner</b> KATHY WANG-HURST	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Amendment filed on 8/27/2008 has been entered. Claims 1-18 have been amended. Claims 19-20 have been added. Claims 1-20 are pending for examination.

### ***Response to Arguments***

2. Applicants' arguments filed 8/27/2008 have been fully considered but they are not persuasive.

The applicants argued features wherein a device showing an indication when the size of the multimedia message being composed exceeds the size limit defined by the network while the multimedia message is being composed, reads upon Sudoh in view of Chander as follows.

Sudoh is discussing a multimedia processing device that is capable of composing multimedia messages. Sudoh discusses a case where the total size of the message data exceeds the upper limit of the size that can be transmitted in the process for preparing a message. The size limit is defined by the network and is stored in the memory on the multimedia device. Thus Sudoh shows the limitation of "a device comprising an application program for composing a multimedia message having a size and wherein the device is configured to store a multimedia message size limited defined by the network, so that said multimedia message size limit is available for the application program during composition".

Sudoh discusses an alarm of an excessive size may be issued in order to warn the user when the user is in the process of preparing a message. Thus Sudoh shows

the limitation of "a circuit configured to produce, while said multimedia message is being composed, an indication when the size of the multimedia message exceeds said multimedia message size limit".

Therefore, the argued limitations read upon the cited references or are written broad such that they read upon the cited references, as follows.

***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter. Claim 17 is directed to program code. To overcome this rejection, examiner suggests that any claims directed to the computer program be amended such that they embody the functional descriptive material on a computer-readable medium.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sudoh (US 2006/0053468) in view of Chander (US 7174177).

Regarding claim 1, Sudoh discloses a device comprising: an application program for composing a multimedia message having a size ([0248] limit value therefore size), and wherein the device is configured to store ([0248] stored in memory unit), so that said multimedia message size limit is available for the application program during composition ([0377]), and a circuit configured to produce([0377]), while said multimedia message is being composed([0377]), an indication when the size of the multimedia message exceeds said multimedia message size limit([0377]).

Sudoh discloses the size limit but fails to disclose the size limit defined by the network. Chander teaches a system and method in a wireless communication network in which the size limit of the message is defined by the network (col. 2 lines 35-45).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Sudoh, to obtain the size limit from the network upon registration as taught by Chander, thus allowing more efficient way of delivery messages and avoiding resegmentation or retransmission of the messages (col. 2 lines 1-5).

Regarding claim 10, Sudoh discloses a method comprising: composing an application program a multimedia message having a size([0377] [0248]), storing a multimedia message size limit for use in the application program during composition([0377] [0248]), looking up in the application program the multimedia message size limit([0377] [0248]), and producing an indication when the size of the multimedia message exceeds the multimedia message size limit while the multimedia message is being composed ([0377] [0248]).

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Chander teaches a system and method in a wireless communication network in which the size limit of the message is defined by the network (col. 2 lines 35-45).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Sudoh, to obtain the size limit from the network upon registration as taught by Chander, thus allowing more efficient way of delivery messages and avoiding resegmentation or retransmission of the messages (col. 2 lines 1-5).

Regarding claims 2 and 11, Sudoh discloses a device and a method according to claim 1 and 10 respectively, but fails to disclose a device wherein the device is configured to request and/or receive the multimedia message size limit from the network.

Chander teaches a system and method in a wireless communication network in which the size limit of the message is defined by the network (col. 2 lines 35-45).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Sudoh, to obtain the size limit from the network upon registration as taught by Chander, thus allowing more efficient way of delivery messages and avoiding resegmentation or retransmission of the messages (col. 2 lines 1-5).

Regarding claims 3 and 12, Sudoh discloses a device and a method according to claim 2 and claim 11 respectively, but fails to disclose a device wherein the device is configured to request and/or receive the multimedia message size limit from at least one

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of the following: a messaging server, a home register or a server located on the network bus.

Chander teaches a system and method in a wireless communication network in which the size limit of the message is defined by the network using a messaging server (col. 2 lines 35-45 and col. 4 lines 37-67 and Fig. 1 item 40).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Sudoh, to obtain the size limit from the network upon registration as taught by Chander, thus allowing more efficient way of delivery messages and avoiding resegmentation or retransmission of the messages (col. 2 lines 1-5).

Regarding claims 4 and 13, Sudoh discloses a device and a method according to claim 1 and 10 respectively, wherein the device is provided with at least one of the following: a memory unit ([0248]), an application program ([0067]), a multimedia message application ([0088]) or a system file, for recording the multimedia message size limit ([0377]).

Regarding claims 5 and 14, Sudoh discloses a device and a method according to claim 1 and 10 respectively, but fails to disclose a device wherein the device includes means for requesting and/or receiving the multimedia message size limit from the network as a response to switching the device on. Chander teaches a system and method in a wireless communication network in which the size limit of the message is defined by the network (col. 2 lines 35-45).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Sudoh, to obtain the size limit from the network upon registration as taught by Chander, thus allowing more efficient way of delivery messages and avoiding resegmentation or retransmission of the messages (col. 2 lines 1-5).

Regarding claims 6 and 15, Sudoh discloses a device and a method according to claim 1 and 10 respectively, but fails to disclose a device wherein the device is configured to request and/or receive the multimedia message size limit from the network as a response to an observation that the device has entered the coverage area of a given network or messaging server.

Chander teaches a system and method in a wireless communication network in which the size limit of the message is defined by the network (col. 2 lines 35-45) providing coverage in the area (col. 3 lines 47-60).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Sudoh, to obtain the size limit from the network covering the area, as taught by Chander, thus allowing more efficient way of delivery messages and avoiding resegmentation or retransmission of the messages (col. 2 lines 1-5).

Regarding claims 7 and 16, Sudoh discloses a device and a method according to claim 1 and 10 respectively, wherein the device is configured to compare the multimedia message size limit with the size of a multimedia message composed by the application



program, and for indicating the detected size difference in the application program either visually and/or audibly ([0377]).

Regarding claim 8, Sudoh discloses a device according to claim 1, wherein the device is mobile device ([0107]).

Regarding claim 9, Sudoh discloses a device according to claim 1, wherein the device is a mobile station ([0100]).

Regarding claim 17, Sudoh discloses a processor usable medium having processor readable program code embodied therein for executing an application for composing a multimedia message, the processor readable program code comprising: processor readable program code for obtaining multimedia message size limit for the multimedia message for use by the application during composition ([0377]); processor readable program code for comparing a size of the multimedia message with the multimedia message size limit and processor readable program code for producing an indication when the size of the multimedia message exceeds the multimedia message size limit while the multimedia message is being composed ([0377] [0248]).

Sudoh discloses a size limit but fails to teach size limit defined by the network. Chander teaches a system and method in a wireless communication network in which the size limit of the message is defined by the network (col. 2 lines 35-45).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Sudoh, to obtain the size limit from the network upon registration as taught by Chander, thus allowing more

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efficient way of delivery messages and avoiding resegmentation or retransmission of the messages (col. 2 lines 1-5).

Regarding claim 18, Sudoh disclose the processor usable medium according to claim 17, but fails to disclose the processor further comprising processor readable program code for requesting and/or receiving from the network the multimedia message size limit defined by the network for the multimedia message.

Chander teaches a system and method in a wireless communication network in which the size limit of the message is defined by the network (col. 2 lines 35-45).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Sudoh, to obtain the size limit from the network upon registration as taught by Chander, thus allowing more efficient way of delivery messages and avoiding resegmentation or retransmission of the messages (col. 2 lines 1-5).

Regarding claim 19, Sudoh discloses a device comprising: an application program for composing a multimedia message having a size ([0377] [0248]), for which there is a given multimedia message size limit for enabling transmission of the multimedia message in a network ([0377] [0248]), said multimedia message size limit being stored in the device so that said multimedia message size limit is available for the application program during composition ([0377] [0248]), and a circuit for producing, while composing the multimedia message, an indication, when the size of the multimedia message being created exceeds said multimedia message size limit ([0377] [0248]).

Regarding claim 20, Sudoh discloses a device including: means for composing a multimedia message having a size([0377] [0248]), for which a network defines a given multimedia message size limit for enabling transmission of the multimedia message in said network([0377] [0248]), said multimedia message size limit being stored in the device so that said multimedia message size limit is available for the means for creating the multimedia message during composition([0377] [0248]), and means for producing, during creating the multimedia message([0377] [0248]), an indication when the size of the multimedia message being composed exceeds said multimedia message size limit([0377] [0248]).

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KATHY WANG-HURST whose telephone number is (571) 270-5371. The examiner can normally be reached on Monday-Thursday, 7:30am-5pm, alternate Fridays, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KATHY WANG-HURST/  
Examiner, Art Unit 2617

/NICK CORSARO/  
Supervisory Patent Examiner, Art Unit 2617

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